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SUBJECT: GOC'S POSSIBLE SHIFT ON INTERNATIONAL CRIMINAL
COURT PROVISION

Classified By: Political Counselor John S. Creamer. Reason: 1.4(b,d)

SUMMARY

11. (C) During an October 17 meeting with Luis Moreno Ocampo, chief prosecutor of the International Criminal Court (ICC), President Uribe suggested the GOC would revisit whether to continue delaying the application of the ICC war crimes provision. The GOC exempted itself from the provision for seven years when it ratified the Rome Treaty in 2002. The GOC also raised with Moreno the prospect of the ICC indicting FARC, ELN or AUC members on narco-terrorism charges. Peace Commissioner Restrepo said both moves are designed to show the FARC and ELN they will not be able to escape justice through a peace accord. End Summary

GOC SIGNALS POSSIBLE SHIFT

12. (U) After meeting with ICC Chief Prosecutor Luis Moreno Ocampo, President Uribe publicly said the GOC should revisit whether to continue delaying the application of the ICC war crimes jurisdiction. Colombia availed itself of article 124 of the treaty to exempt itself from the war crimes provision for seven years, when it ratified the treaty in 2002. Uribe said that since Colombia already participates in other international tribunals, such as the Inter-American Human Rights Commission and the Inter-American Court, there was no reason to delay full ICC jurisdiction. Colombia delayed application of the war crimes provision because it feared it would be an obstacle to a peace process with the FARC or ELN. Both groups demand a complete amnesty as part of any peace accord.

13. (C) GOC High Commissioner for Peace Luis Carlos Restrepo said the GOC has received little support from the Europeans and human right groups in its effort to convince the ELN that a complete amnesty is no longer possible under international law. He had urged Uribe to reconsider the delay to show the FARC and ELN that they would not be able to escape justice issues through a peace accord. Restrepo said he also raised with Moreno the possibility of the ICC indicting FARC, ELN or paramilitary members on narco-terrorism charges. Moreno said the court would look at the issue.

14. (U) Moreno told the press that regardless of the war crime exemption, the ICC already has jurisdiction over crimes against humanity committed in Colombia. Under the ICC, he stressed, there cannot be amnesties or pardons for those responsible for grave human rights violations--even as part

of a peace process. Moreno said the ICC is following the Justice and Peace Law process closely, and urged Colombian prosecutors to focus their efforts on paramilitary leaders rather than rank-and-file members. He added that while the ICC forbids impunity, the treaty does not address the length of sentences that should be imposed for specific offenses.

Brownfield